

**Remarks:**

Reconsideration of the application is requested.

Claims 1 - 14, 18, 20 - 31 and 33 - 35 are now in the application. Claims 1, 18 and 20 have been amended. Applicant has canceled claims 15, 16, 17, 19 and 32 from the present application without prejudice, for possible pursuit of those particular claims in a future continuation case. New claims 33, 34 and 35 have been added.

Applicant would like to thank Examiner Tran for the courtesy and helpfulness shown to Applicant's representative during the telephonic interview of November 10, 2004.

During the interview, Applicant's representative made a proposed amendment, reiterating Applicant's belief that measurement of signal quality, absent something more, was not a measurement of path loss. However, the rejection of the Office Action on this basis was maintained, and further applied against Applicant's proposed amendment.

Also during the telephonic interview, Examiner Tran suggested and Applicant agreed that an amended claim 1 including the limitations of previously presented claims 1, 15, 16 and 19 would be presented for consideration. It was believed that this combination would be patentable over the cited art,

including the Le Strat reference. It is additionally supported by the specification. For example, that a long-term resource allocation can occur within the Radio Resource Control function is supported on page 23, lines 1 - 20, whereas that the Media Access Control layer can also be used, for example, for short-term resource allocation, is supported on page 25 at lines 20 - 23.

As such, Applicant is presenting herewith an amended claim 1, including the limitations of claims 15, 16 and 19, with one change. Amended claim 1, recites that the MAC layer selects a transport format, either from the set defined at start-up, or from another set. This change is to reconcile a limitation from original claim 19 with one in original claim 16. The setting of multiple transport formats for use in the system, independent of the MAC layer, is supported by the instant specification on pages 24 - 26. See for example, page 24, lines 1 - 11; lines 21 - 22 and page 25, lines 5 - 7.

Amended claim 1 now recites that the selecting step selects a transport format from the set defined at start-up, or from another set. Note that, as a result of the incorporation of the limitation of claim 16, one other possible Transport Format Set is already recited in the varying step of amended claim 1. As such, amended claim 1 allows for the selection of

the transport format to be reconciled between, at least the two sets recited in amended claim 1. It is believed that this amended claim 1 is patentable for the same reasons as was the discussed combination of claims 1, 15, 16 and 19.

Claim 18 was amended to depend from amended claim 1. Claim 20 was amended to remove a duplicative limitation. New claim 35 was added and further defines the possible "another set" of amended claim 1 as being determined using either Transport Format Set configuration/reconfiguration procedure (discussed on page 24 of the present specification) or a Transport rate restriction procedure (discussed on page 25 of the present specification).

Applicant is additionally proposing for consideration, new independent claim 33, which includes the limitations of formerly presented claims 1, 15, 17 and much of claim 19. More specifically, new claim 33 includes the "defining" step of claim 19, and a modified "selecting" step, but, unlike claim 19, does not require that an MAC layer be used to perform the selecting step and, further, permits the selecting step to chose between transport format sets.

As such, new claim 33 recites varying the transmission rate by using a Transport Format Set restriction procedure of the

Radio Resource Control layer, rather than by using the configuration/reconfiguration procedure of the RRC layer, as recited in amended claim 1. It is believed that new claim 33 would also be patentable over the cited art.

In accordance with further claiming the use of the Transport Format Set reconfiguration procedure, Applicant is additionally proposing a new independent claim 34, supported by the cited statement on page 24, and additionally by lines 20 - 24 of page 25 of the instant application. New claim 34 includes the limitations of previously presented claims 1 and 19, amended to have the selecting step of amended claim 1, as well as portions of claim 15 and 16. More specifically, in new claim 34, the "rate allocation is carried out in dependence on at least one of the path loss and a transmitter power" as in claim 15, and that the "varying step" varies the transmission rate by using a "Transport Format Set configuration/reconfiguration procedure", as in claim 16, but without requiring the RRC layer. It is believed that new claim 34 would additionally be patentable over the cited art.

In view of the foregoing, reconsideration and allowance of claims 1 - 14, 18, 20 - 31 and 33 - 35 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out. In the alternative, the entry of the amendment is requested, as it is believed to place the application in better condition for appeal, without requiring extension of the field of search.

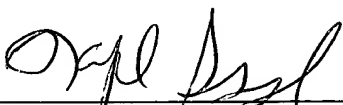
Additionally, please consider the present as a petition for a one month extension of time, and please provide a one month extension of time, to and including, December 12, to respond to the present Office Action.

The extension fee for response within a period of 1 month pursuant to Section 1.136(a) in the amount of \$110.00 in accordance with Section 1.17 is enclosed herewith.

Please provide any additional extensions of time that may be necessary and charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Applic. No. 09/611,772  
Response Dated November 30, 2004  
Responsive to Office Action of August 12, 2004

Respectfully submitted,

  
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For Applicant

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KPS:cgm

November 30, 2004

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